



HOUSE OF REPRESENTATIVES

SB 1266

firearms; state preemption; penalties
Prime Sponsor: Senator Smith, LD 11

DP Committee on Judiciary
DP Caucus and COW
X As Transmitted to the Governor

OVERVIEW

SB 1206 declares invalid any rule, ordinance, tax or regulation enacted by a political subdivision in violation of the firearms preemption statute and establishes penalties for violations.

PROVISIONS

1. States that any tax, ordinance, rule or regulation enacted by a political subdivision in violation of the firearms state preemption statute is invalid and subject to a permanent injunction.
2. States that it is not a defense that the political subdivision was acting in good faith or on the advice of counsel.
3. Allows the court to assess a civil penalty of up to \$50,000 against a political subdivision if the violation was knowing and willful.
4. Subjects a person to termination from employment if a court determines that the person knowingly and willfully violated the preemption statute while acting in the person's official capacity. Termination is to the extent allowable under law.
5. Allows a person or organization whose membership is adversely affected by an ordinance, regulation, tax, measure, directive, rule, enactment, order or policy in violation of the preemption statute to file a civil action in any court with jurisdiction over the defendant for:
 - a. Declaratory and injunctive relief; and
 - b. Actual damages against the political subdivision.
6. Requires the court to award the following if the plaintiff prevails in the action:
 - a. Reasonable attorney fees and costs; and
 - b. Actual damages incurred, up to \$100,000.
7. Makes technical and conforming changes.

CURRENT LAW

[A.R.S. § 13-3108](#) is the state firearms preemption statute that prohibits a political subdivision from enacting any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, ammunition, components or accessories in this state. Political subdivisions are prohibited from:

- Requiring licensing or registration of firearms, ammunition, components or accessories;
- Prohibiting the ownership, purchase, sale or transfer of firearms, ammunition, components or accessories;

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- Requiring or maintaining a record of the identifying information of either:
 - A person who leaves a weapon in temporary storage;
 - A person who owns, possesses, purchases, sells or transfers a firearm; or
 - The description (including a serial number) of a weapon left in temporary storage.
- Enacting any rule or ordinance related to firearms that is more prohibitive than or that has a greater penalty than any state law;
- Enacting any ordinance, rule or regulation limiting the lawful taking of wildlife during open season, unless the rule, ordinance or regulation is consistent with state law or agency rule;
- Facilitating the destruction of a firearm or purchasing or acquiring a firearm for the purpose of destroying it, unless authorized under law.

Several exceptions are also provided in this section. Under A.R.S. 13-3108, a *political subdivision* is defined as including a political subdivision acting in any capacity, including under police power, in a proprietary capacity or otherwise.